

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

JUST ENERGY GROUP INC., *et al.*,

Debtors in a Foreign Proceeding.¹

JUST ENERGY TEXAS LP, FULCRUM RETAIL
ENERGY LLC, HUDSON ENERGY SERVICES
LLC, and JUST ENERGY GROUP, INC.,

Plaintiffs,

v.

ELECTRIC RELIABILITY COUNCIL OF TEXAS,
INC.,

Defendant.

Chapter 15

Case No. 21-30823 (MI)

Adv. Proc. No. 21-4399

**EMERGENCY MOTION TO CONTINUE RESPONSE
DEADLINE UNDER FED. R. CIV. P. 15(a)(3)**

Emergency relief has been requested. Relief is requested not later than February 25, 2022.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

A hearing will be conducted on this matter on February 24, 2022, at 8:30 a.m. CT in Courtroom 404, 515 Rusk, Houston, TX 77002. You may participate in the hearing either in person or by an audio and video connection.

Audio communication will be by use of the Court's dial-in facility. You may access the facility at 832-917-1510. Once connected, you will be asked to enter the conference room number. Judge Isgur's conference room number is 954554. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge

¹ The identifying four digits of Just Energy Group Inc.'s local Canada tax identification number are 0469. A complete list of debtor entities in these chapter 15 cases may be obtained at www.omniagentsolutions.com/justenergy.

Isgur’s home page. The meeting code is “JudgeIsgur”. Click the settings icon in the upper right corner and enter your name under the personal information setting.

Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the “Electronic Appearance” link on Judge Isgur’s home page. Select the case name, complete the required fields and click “Submit” to complete your appearance.

TO THE HONORABLE MARVIN ISGUR,
UNITED STATES BANKRUPTCY JUDGE:

Pursuant to Federal Rule of Civil Procedure 15(a)(3), made applicable to this adversary proceeding by Federal Rule of Bankruptcy Procedure 7015, Defendant Electric Reliability Council of Texas, Inc. (“ERCOT”) moves to extend the deadline to respond to the *First Amended Complaint* [ECF No. 95] (the “Amended Complaint”) filed by Plaintiffs Just Energy Texas LP, Fulcrum Retail Energy LLC, Hudson Energy Services LLC, and Just Energy Group, Inc. (collectively, “Just Energy”).

1. Following a hearing on February 2, 2022, the Court granted, in relevant part, ERCOT’s motion to dismiss Just Energy’s original complaint, without prejudice to Just Energy amending certain counts. Just Energy then filed the Amended Complaint on February 11, 2022. The Amended Complaint alleges four new causes of action under the Canadian Bankruptcy and Insolvency Act (“BIA”), which Just Energy asserts is applicable to the pending Canadian arrangement proceedings under the Companies’ Creditors Arrangement Act (“CCAA”).²

2. By this Motion, ERCOT seeks to extend the deadline for it and all other relevant parties to respond to the Amended Complaint under Fed. R. Civ. P. 15(a)(3) from

² The original complaint included a Count based on “Canadian Companies Creditors Arrangement Act” without reference to any specific provisions of the Act.

February 28, 2022, to **March 17, 2022**. ERCOT has consulted with Just Energy, and Just Energy is unwilling to extend the deadline beyond March 7, 2022.

3. ERCOT's seeks an extension because, as the Court is likely aware, ERCOT is involved in an adversary proceeding against another debtor, Brazos Electric Power Cooperative, Inc., before the Honorable David R. Jones. Trial begins in that matter on February 22, 2022, and is expected to continue for approximately 2 weeks. Given the significance of that matter, including the number of fact and expert witnesses and the amounts in controversy, ERCOT has deployed all or substantially all of its litigation team to the trial, including Mr. Alibhai and Mr. Parker. Similarly, many ERCOT decision-makers will participate—directly as witnesses or indirectly as interested parties—in the trial and will thus have limited availability to devote to strategy, review, and approval of ERCOT's responsive pleading in this proceeding. A responsive-pleading extension through approximately one week after the anticipated conclusion of the *Brazos* trial will enable ERCOT to thoughtfully respond to the Amended Complaint.

4. Moreover, filing a response will not be a matter of regurgitating ERCOT's motion to dismiss the original complaint. The Amended Complaint is materially different, raising five new causes of action. Four of the five new causes of action are entirely derived from Canadian law, which differs from American avoidance law in material respects and implicates potentially new defenses related to chapter 15 of the Bankruptcy Code. As a result, ERCOT is seeking to retain Canadian counsel with bankruptcy and avoidance expertise. However, in light of the size of the Just Energy arrangement proceedings in Canada, conflicts abound, and ERCOT needs more time.

5. For these reasons, ERCOT seeks an extension of the responsive pleading deadline to March 17, 2022. The purpose of seeking this extension is not for delay but so that justice may

be done. ERCOT files this Motion as an emergency motion in light of the impending deadline to file a responsive pleading.

WHEREFORE, PREMISES CONSIDERED, ERCOT respectfully requests that the Court extend the deadline for all parties to respond to the Amended Complaint to and including March 17, 2022, and provide ERCOT such other and further relief to which it may be entitled.

Dated: February 18, 2022

Respectfully submitted,

MUNSCH HARDT KOPF & HARR, P.C.

By: /s/ Jamil Alibhai

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**COUNSEL FOR DEFENDANT
ELECTRIC RELIABILITY COUNCIL
OF TEXAS, INC.**

CERTIFICATE OF CONFERENCE

I certify that I have conferred with counsel for Just Energy regarding the relief requested herein, and Just Energy is unwilling to extend the deadline to respond to the Amended Complaint beyond March 7, 2022.

By: /s/ Jamil Alibhai

Jamil Alibhai

CERTIFICATE OF SERVICE

I certify that on February 18, 2022, I caused a copy of the foregoing document to be served via CM/ECF on all counsel of record.

By: /s/ Jamil Alibhai

Jamil Alibhai